

Amendment No. 1 to HB2954

**Chumney
Signature of Sponsor**

AMEND Senate Bill No. 3170

House Bill No. 2954*

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

by deleting all language following the caption and substituting instead the following:

WHEREAS, the Juvenile Justice Reform Commission was created by Governor Don Sundquist in February of 1998; and

WHEREAS, the Governor charged the Commission to make recommendations regarding the juvenile justice system with emphasis upon how to deal with violent juvenile offenders, to include consideration of the public safety concerns of our citizens while creating reforms that would be feasible, allow for appropriate rehabilitation and develop more sentencing options for judges; and

WHEREAS, the Commission met over a period of nearly two (2) years; conducted public hearings to permit involvement of concerned citizens; considered presentations by nationally recognized juvenile justice experts; formed subcommittees to examine areas of concern and to develop proposed revisions to the Tennessee code; and formed an education advisory committee made up of school superintendents from across the state to provide feedback in the areas affecting education; and

WHEREAS, the Commission developed a majority consensus to recommend statutory changes and resolutions including the following:

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(1) Statutory exclusion from juvenile court of juvenile offenders, fifteen (15) years and older, who commit certain violent crimes, with sentencing to the department of corrections if convicted;

(2) Blended sentencing options for juvenile court and criminal court judges to provide intermediate sentencing for juveniles not identified for statutory exclusion that provides more flexible sentencing as well as opportunities for rehabilitation through educational, vocational and other treatment programs. Such juveniles would be housed in an appropriate institution separate from adult inmates sentenced to the department of corrections;

(3) Local truancy review boards to be required in those areas of the state that do not have an effective truancy prevention program, to which truancy cases could be diverted from local juvenile courts to allow juvenile courts to focus on serious crimes and to allow involvement of local education officials;

(4) Recommendation of a central information system for adjudicated juveniles;

(5) Recommendation of additional state funded observation and assessment centers to provide juvenile court judges with additional resources including medical, psychological and educational assessments to allow judges to better determine the risk to the community and the needs of the juvenile;

(6) Recommendation of expansion of available hardware secure beds for female juvenile offenders; and

(7) Recommendation of expansion of available hardware secure beds for serious and violent offenders at Woodland Hills Youth Development Center; and

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WHEREAS, a minority report of the Commission opposed statutory exclusion and strongly recommended retention of judicial discretion through transfer proceedings; endorsed the blended sentencing concept as an additional dispositional alternative for juvenile and criminal courts, while questioning whether sufficient data has been developed to justify a statutorily required separate facility; recommended provision of additional resources for prevention and early intervention; and recommended discussion to encourage development of a comprehensive approach; and

WHEREAS, it is desirable to proceed with such extensive reform in incremental phases to ensure development of a well defined and comprehensive solution to the serious issue of juvenile justice; to fully identify the anticipated impact of substantial change to the enormous juvenile justice system; to allow sufficient time for study and involvement of the relevant departments of government and of entities such as the Tennessee Council of Juvenile and Family Court Judges; and to evaluate the financial costs and benefits of such change; and

WHEREAS, provision of additional resources for assessing youth adjudicated of delinquency, based upon the model of the existing observation and assessment center in east Tennessee, with the possibility of services to families for children who appropriately remain united with their families, is an appropriate first phase in implementing the important recommendations of the Commission while permitting further refinement and dialogue regarding its promising recommendations; now, therefore;

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

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SECTION 1. Tennessee Code Annotated, Title 37, Chapter 1, Part 1, is amended by adding the following as an appropriately designated section:

Section (___). (a) For the detention, observation, and assessment of youth adjudicated delinquent, there shall be established a statewide system of observation and assessment centers. Such centers shall serve youth adjudicated delinquent who are awaiting disposition on delinquency charges and are placed in the temporary custody of the department of children's services for the purposes of assessment. Such centers shall be secure facilities under the supervision and control of the commissioner of children's services and may be provided through contractual services.

(b) An observation and assessment center shall be established in each of the three grand divisions of the state, in addition to any such center that may be in operation at the time of passage of this act. Such centers shall serve youth adjudicated delinquent in that region. Observation and assessment centers are established to provide the juvenile courts with predisposition information regarding the psychological functioning, educational achievement or needs, and behavioral issues of youth adjudicated delinquent to assist the court in determining proper disposition of delinquent such youth.

(c) At any time prior to the disposition of a child who has been adjudicated delinquent, the court may, subject to available capacity in the observation and assessment center, place the child in the temporary custody of the department for the purpose of evaluation and assessment and order that the department make an assessment of the child and report the findings and recommendations to the court. Such

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order shall confer authority upon the department or its designees to transport the child and to obtain any necessary evaluations of the child without further consent of the parent or parents, legal custodian or guardian.

(d) At the time a juvenile court refers a youth to an observation and assessment center, it shall schedule a final disposition hearing to be held within thirty (30) days of the youth's admittance to the center. Youth referred to the center shall not remain in the department's temporary legal custody in excess of thirty (30) days. Should the juvenile court fail to schedule a final dispositional hearing to be held within thirty (30) days of referral, the department shall petition the court for the scheduling of a dispositional hearing and the court shall set said hearing within ten (10) calendar days.

(e) The licensed or otherwise approved capacity of observation and assessment centers shall not be exceeded under any circumstances. If the department determines, based upon center capacity, that there are no available placements at the center, the department shall notify the referring court and the court shall immediately proceed with disposition.

(f) The department of children's services shall promulgate rules in accordance with the provisions of the Uniform Administration Procedures Act, compiled in Title 4, Chapter 5, to implement the provisions of this section.

(g) The department shall conduct ongoing evaluations of the effectiveness of the observation and assessment centers and shall file a report, on or before December 31 of each year. Such report shall be provided to the governor; the chair of the committee on children and family affairs of the house of representatives; the chair of the

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general welfare, health and human resources committee of the senate; the chair of the select committee on children and youth; and the commission on children and youth. The report shall include the following information for the preceding year regarding children placed in an observation and evaluation center:

(1) The number of children who, as a result of an assessment in an observation and assessment center, remain with their families rather than being placed in an out-of-home placement;

(2) The average cost of services provided to families for children identified in subdivision (1), above;

(3) The estimated cost of out-of-home placement and services that would have otherwise been expended on behalf of those children identified in subdivision (1) above;

(4) The number of children identified in subdivision (1), above, who remain united with their families after one (1), two (2), and three (3) years, respectively; and

(5) Any recommendations of the department pertaining to the observation and assessment program.

SECTION 2. Tennessee Code Annotated, Section 37-1-128(g), is deleted in its entirety.

SECTION 3. (a) The department of children's services shall serve as the lead agency in conducting a review and study of the recommendations of the Juvenile Justice Reform Commission. The department shall be assisted by the departments of corrections, education and mental health and mental retardation. As requested, other agencies and departments shall cooperate with such study. The study shall include specific recommendations in each of the

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substantive areas recommended by the Commission. The study shall include an assessment of the anticipated fiscal impact of its recommendations and identify departments and entities so impacted. The department shall involve the Tennessee Council of Juvenile and Family Court Judges, the Tennessee Commission on Children and Youth and other entities in its review.

(b) It is the intent of the general assembly that the recommendations of the Juvenile Justice Reform Commission be reviewed for implementation through legislation that will provide a comprehensive approach to the serious issue of juvenile justice, including delinquency and crime, especially as it impacts public safety. Such review shall focus upon continuation of an appropriate program of treatment, training and rehabilitation for those juveniles best served in a juvenile court setting; emphasis upon individual and family accountability; development of truancy intervention alternatives; and support for a continuum of services for a youth and his or her family that will emphasize prevention through early intervention.

SECTION 4 This act shall take effect upon becoming law, the public welfare requiring it.